

Comments on Nextel's "proposed clarifications"

The first paragraph below is a reiteration verbatim of comments I filed back on February 10, 2003.

All non Nextel EA 800 license holders should be allowed to elect to receive cellular spectrum:

Anyone who has an 800 EA license should have the ability to choose a cellular license just like Nextel. This allows for equality among spectrum holders and gives the auctioned license owner the ability to migrate up to a low site cellular technology. All The EA license winners should be able to have the same type of treatment as either Nextel or Southern company.

The public interest is not being served if Nextel is allowed to force EA license holders to be placed in the non low site cellular band for the following reasons:

1. It would undermine the integrity of the auction process if the commission is allowed to change the rules of spectrum use after licenses have granted. This would result in less future auction participation and therefore less money for the US treasury.
2. Competition from small business entrepreneurs will be eliminated if they are not afforded the same migration path to improved technology as larger businesses. This will result in fewer choices for consumers and less opportunity for small business development.
3. Equal opportunity for all would no longer ring true if one class of licenses is treated differently than others. Let us not forget that Nextel like many smaller licensees started out first with SMR analog technology and then migrated to high site digital cellular then low site cellular. Just because an operator has not yet built out ESMR doesn't mean that they won't be able to do so in the future.

The definition of cellular is what needs clarification in the FCC report and order. No 800 licensee whether site specific or EA should have to meet this requirement now in order to have their licenses classified as Cellular if they so choose. 20 channels currently; must have an EA and or be built ESMR is arbitrary and discriminatory.

1. As technology advances non low site cellular licensees should be able to marry their 800 licenses with other spectrum to create cellular systems. This has already been proven with the IDEN format now supporting 900 SMR channels. Other nearby spectrum that could be used currently or in the very near future for cellularized systems includes the narrowband PCS 900 MHz spectrum and the 700 MHz band. With the proliferation of dual band phones on the market currently, and many future auctions of spectrum how can

anyone say that one does not have enough channels currently to be a cellular operator in the future.

2. Small existing 800 operators should still be able to consolidate or form joint ventures in the future to develop systems using cellularized technology just like Nextel did. Because of this possibility even the single channel holder should be able to elect if they want to have a license classified as cellular.
3. If there is not enough spectrum above 862 to accommodate all parties interested in keeping their cellular capable status then the FCC will have to simply make the cellularized band larger like they are doing in Southern Linc territories.
4. Public safety would still be at the lower end of the spectrum protected from the interference of the larger cellularized bands. Those who choose cellular but currently have older technology in place will have to first weigh if they can live some level of interference from Nextel.